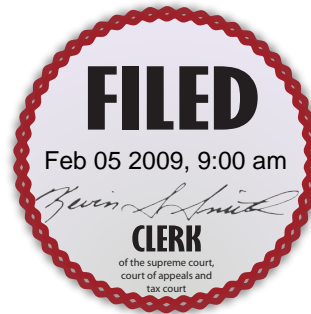


Pursuant to Ind.Appellate Rule 65(D), this Memorandum Decision shall not be regarded as precedent or cited before any court except for the purpose of establishing the defense of res judicata, collateral estoppel, or the law of the case.



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**IN THE
COURT OF APPEALS OF INDIANA**

JOSEPH A. CRAIGO,)	
)	
Appellant-Defendant,)	
)	
vs.)	No. 20A03-0808-CR-404
)	
STATE OF INDIANA,)	
)	
Appellee-Plaintiff.)	

APPEAL FROM THE ELKHART SUPERIOR COURT NO. 3
The Honorable George W. Biddlecome, Judge
Cause No. 20D03-0511-FC-157

February 5, 2009

MEMORANDUM DECISION – NOT FOR PUBLICATION

RILEY, Judge

STATEMENT OF THE CASE

Appellant-Defendant, Joseph A. Craig (Craig), appeals the trial court's revocation of his community corrections home detention placement.

We affirm.

ISSUE

Craig raises one issue on appeal, which we restate as follows: Whether the trial court abused its discretion when it revoked Craig's placement in the East Race Community Corrections home detention program.

FACTS AND PROCEDURAL HISTORY

On November 14, 2005, the State filed an Information charging Craig with Count I, possession of a handgun without a license, a Class A misdemeanor, Ind. Code § 35-47-2-1(a); Count II, possession of methamphetamine weighing three grams or more, a Class C felony, I.C. §§ 35-48-4-6(a) & (b)(1)(A); and Count III, possession of paraphernalia, a Class A misdemeanor, I.C. §§ 35-48-4-8.3(a)(1) & (b). On February 9, 2006, Craig entered into a plea agreement with the State whereby he agreed to plead guilty to Count II in exchange for the dismissal of the remaining charges. On March 9, 2006, the trial court imposed a six-year sentence with two years executed, two years in the East Race Community Corrections home detention program, and two years probation.

On December 10, 2007, the State filed a Notice of Violation of Community Corrections Rules, alleging that Craig (1) was in possession of alcohol; (2) was absent from the home without authorization; and (3) failed to have program fees paid in a timely manner.

On December 17, 2007, the Notice was amended by adding a fourth charge: failure to keep a scheduled appointment to receive a drug test. On July 10, 2008, after an evidentiary hearing, the trial court found that Craig had violated the terms of his placement (1) by leaving his residence without authorization at 10:30 a.m. on December 8, 2007, whereas he was only allowed to leave his residence between 2:00 p.m. and 6:00 p.m. and (2) by failing to appear for a drug test on December 10, 2007, as ordered. As a result, the trial court imposed the balance of Craig's sentence to be served at the Indiana Department of Correction.

Craig now appeals. Additional facts will be provided as necessary.

DISCUSSION AND DECISION

Craig contests the trial court's findings that he violated the terms of his community corrections placement. For purposes of appellate review, we treat a hearing on a petition to revoke a placement in a community corrections program the same as we do a hearing on a petition to revoke probation. *Cox v. State*, 706 N.E. 547, 549 (Ind. 1999), *reh'g denied*. A defendant "is not entitled to serve his sentence in a community corrections program but, as with probation, placement in the program is a 'matter of grace' and a 'conditional liberty that is a favor, not a right.'" *Million v. State*, 646 N.E.2d 998, 1001-02 (Ind. Ct. App. 1995). A community corrections revocation hearing is civil in nature and the State must prove the alleged violation by a preponderance of the evidence. *Decker v. State*, 704 N.E.2d 1101, 1104 (Ind. Ct. App. 1999), *trans. dismissed*. As a result, we will affirm the revocation of placement in a community corrections program if, considering only the probative evidence and reasonable inferences therefrom, there is sufficient evidence supporting the conclusion

that the individual within the program is guilty of violating any condition of the program. *Patterson v. State*, 750 N.E.2d 879, 883 (Ind. Ct. App. 2001).

At the evidentiary hearing, Michelle Ruth (Ruth), program administrator for East Race Community Corrections facility, testified that failure to report for a drug test is a violation of the terms of the contract entered into between Craigo and the facility. Craigo's case file indicates that he was scheduled to appear at the facility on December 10, 2007, to undergo a drug test. Ruth testified that he failed to keep that appointment.

Additionally, Jose Flores, a witness called by Craigo, testified that on December 8, 2007, Craigo had come over to his house and was at his residence between 11:30 a.m. and 1:00 p.m. According to the terms of his placement, Craigo was only allowed to leave his house between 2:00 p.m. and 6:00 p.m. Based on this evidence, we conclude that the trial court did not abuse its discretion by revoking Craigo's community corrections home detention placement.

CONCLUSION

Based on the foregoing, we conclude that the trial court did not abuse its discretion by revoking Craigo's placement in the East Race Community Corrections home detention program.

Affirmed.

DARDEN, J., and VAIDIK, J., concur.